

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Crl.Rev.Pet.No. 3945 of 2007()

CC.785/2006 of JUDL.MAGISTRATE OF FIRST CLASS-I, PUNALUR

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REVN. PETITIONER: COMPLAINANT

NOBIL, S/O.K.K.ITTICHERIYA,
KALAPPILA A.B.HOME, EDAMULACKAL VILLAGE,
ANCHAL.

BY ADV. SRI.SUNNY XAVIER
SMT.BEENA THOMAS (ERNAKULAM)

RESPONDENTS: ACCUSED

1. T.UMMAN PANICKAR, TOPS MANAR,
PANEVLI P.O., KOTTARAKKARA, KOLLAM.

2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI. C.M. NAZAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

V. RAMKUMAR , J
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CRL. R.P. NO. 3945 OF 2007

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Dated this the 12th day of November, 2007.

ORDER

The revision petitioner, who was the complainant in C.C. No. 785/2006 on the file of the Judicial First Class Magistrate-I, Punalur for an offence punishable under Section 138 of the Negotiable Instruments Act, challenges the order dated 28.04.2007 passed by the Magistrate dismissing the complaint under Section 204(4) Cr.P.C for not paying the process fee for issuing Non bailable warrant against the absconding accused.

2. In as much as the impugned order was passed at a time when the accused was absconding and without hearing the accused, notice to the 1st respondent/accused is dispensed with.

3. The cheque in question involves a sum of Rs.2,50,000/-. The learned counsel for the revision petitioner submitted that it was consistent with the existing practice in the court of Judicial First Class Magistrate-I, Punalur that the the revision petitioner/complainant produced a stamped cover bearing postal stamps for Rs.25/- for issuing warrant to the accused. Whatever may be the usual practice, there is no justification for producing stamped cover for issuing

warrant. The requisite process fee has to be deposited by the revision petitioner/complainant for the purpose of issuing warrant to the absconding accused. That has not been done. At the same time I am not inclined to hold that the revision petitioner is grossly negligent in the conduct of his case. He had produced a stamped postal cover consistent with the practice that was followed in that court. A wrong practice cannot make good law. Hence, the revision petitioner has to deposit the process fee in this behalf. The impugned order is accordingly set aside and C.C. No. 785/2006 is restored to file. The revision petitioner shall appear before the court below without any further notice on **10.12.2007**. By that time he would have deposited the necessary process fee for issuing warrant against the accused in the case.

The Crl.R.P. is disposed of as above.

V. RAMKUMAR, JUDGE.

Crl.R.P. No. 3945/2007

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